

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

ADRIENNE BLAND)	
Claimant)	
VS.)	
)	Docket No. 239,100
BOEING COMPANY)	
Respondent)	
AND)	
)	
INSURANCE COMPANY ST. OF PENNSYLVANIA)	
Insurance Carrier)	

ORDER

Claimant appealed the September 11, 2000, Order entered by Administrative Law Judge Nelsonna Potts Barnes.

ISSUES

This case involves a post Award application for medical treatment. The issue claimant raises is whether she has a right to continue with the previously authorized treating physician, or, if instead, the respondent can require claimant to choose from a list of three physicians.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire record, the Appeals Board finds that the ALJ's Order should be affirmed.

(1) Claimant's date of accident was "on April 1, 1998 and each day thereafter through May 4, 1998." Claimant's authorized treating physician was Dr. Pedro A. Murati.¹ A July 30, 1999 preliminary hearing Order provided that "Dr. Murati shall remain the authorized and treating physician until such time as a regular hearing is scheduled and conducted."

(2) In a report dictated on October 23, 1999 concerning his July 22, 1999 office visit, Dr. Murati rated and released claimant with permanent restrictions.²

¹ February 10, 1999 preliminary hearing Order.

² Respondent's Exhibit A to the agreed Award.

(3) The parties settled this claim by an agreed Award filed February 7, 2000. The permanent partial disability award was based upon a 22 percent general body disability. The Award also provided for future medical treatment "only upon proper application to the Workers Compensation Director."

(4) On July 27, 2000 claimant's counsel sent respondent a notice of intent letter demanding post-Award medical treatment benefits.³ A reply letter was sent by respondent's counsel to claimant's counsel dated August 14, 2000 advising that respondent was authorizing claimant to choose from three physicians, namely "Drs. Poole, Eyster or John Estivo". Claimant's Application for Post Award Medical was filed August 14, 2000 and specified that "claimant requests authorization of Dr. Pedro Murati."

(5) The ALJ denied claimant's request for authorization of Dr. Murati, finding claimant was entitled to post Award medical treatment but that claimant should select an authorized treating physician from the three physicians named by respondent. Claimant contends this was error.

(6) K.S.A. 44-510a authorizes the employer to designate a treatment provider for an employee.⁴ The ALJ's order authorizing Dr. Murati ended when the parties entered into the agreed Award.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order entered by Administrative Law Judge Nelsonna Potts Barnes, dated September 11, 2000, should be, and is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of October 2000.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Steven R. Wilson, Wichita, KS
Frederick L. Haag, Wichita, KS

³ Claimant's Exhibit 1 to the Transcript of September 7, 2000 Motion Hearing.

⁴ See Matney, D.C. v. Matney Chiropractic Clinic, P.A., 268 Kan. 336, 341, 995 P.2d 871 (2000).

Nelsonna Potts Barnes, Administrative Law Judge
Philip S. Harness, Director